

### ***Remarks***

Claims 1-11 and 19 are pending in this application. Claims 1-9 and 11 are cancelled herein. Accordingly, claims 10 and 19 are now pending in this application.

Applicants note that the Examiner has not received the references submitted with the IDS of August 9, 2006. Such IDS is re-submitted along with copies of the cited references.

### **Objections to the Claims**

Claims having non-elected subject matter have been cancelled or amended to delete said non-elected subject matter.

Claim 1 has been cancelled.

Claim 10 has been amended as suggested by the Examiner to add the term "and" in the appropriate position.

Claims having non-elected subject matter have been cancelled or amended to delete said non-elected subject matter.

### ***Rejection under 35 USC § 112 – 1<sup>st</sup> and 2<sup>nd</sup> Paragraphs***

The Office Action has asserted several rejections under section 112 which are handled following.

The Office Action rejects claims 1-11 and 19 under Section 112, 1<sup>st</sup> paragraph as being not enabled. Claims 1-9 and 11 are cancelled. The term "solvates" has been deleted from claims 10 and 19. Accordingly, applicants believe the rejection is overcome by amendment or mooted by cancellation of claims. Applicants respectfully request that the rejections be withdrawn.

The Office Action rejects claims 1-11 and 19 under Section 112, 2<sup>nd</sup> paragraph as being indefinite. The Examiner asserts that the term "derivative" is indefinite. Claims 1-9 and 11 are now cancelled. Claims 10 and 19 are amended to delete the term "derivative" from the claims. Accordingly, applicants believe the

rejection is overcome by amendment or mooted by cancellation of claims. Applicants respectfully request that the rejections be withdrawn.

***Rejection under 35 USC § 103***

Claims 1-3, 7-9, 11, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews et al (US20060074119).

Initially, Applicants note that Andrews et al and the present application are commonly owned and therefore do not qualify as prior art according to 35 U.S.C. 103(c). The present application is owned by GlaxoGroup Limited and Andrews et al is owned by SmithKline Beecham Corporation both of which are wholly owned subsidiaries of GlaxoSmithKline plc. Attached hereto are the front Title page of Andrews et (US20060074119) and its PCT parent WO04/014899 which indicate ownership by SmithKline Beecham Corporation. Also attached is the notice of recordation for the present application indicating ownership by Glaxo Group limited. Accordingly, Applicants assert that the rejection is moot and request it be withdrawn.

***Obviousness Type Double Patenting Rejection***

Claims 1-3, 7-9, 11, and 19 are rejected under the doctrine of obviousness type double patenting over claims 1, 7, 14, 18, 19, 21, and 23 of US Ser. No. 10/522,958. Applicants note that claims 1-3 and 7-9 are cancelled herein and therefore the rejection is moot as to these claims.

As to claims 11 and 19, Applicants believe that these claims are unobvious over the subject matter of the claims of Andrews et al. Accordingly, Applicants assert the rejection is overcome by amendment or mooted by cancellation of claims. Applicants respectfully request that the rejection be withdrawn.

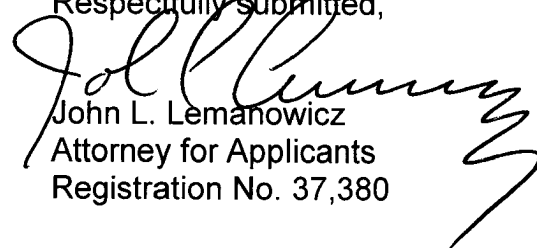
***Conclusion***

The points and concerns of the Examiner have been addressed in full. Applicants respectfully submit that the instant application is in condition for

allowance, which is respectfully requested. Should any issues remain unresolved in this application which would bar issuance, the Examiner is invited to contact the undersigned Attorney at (919) 483-6334 to discuss such issues.

Applicants believe that no fees are due in connection with the filing of this paper other than those specifically authorized herewith. However, should any other fees be deemed necessary to affect the timely filing of this paper the Commissioner is hereby authorized to charge such fees to Deposit Account No. 07-1392.

Respectfully submitted,

  
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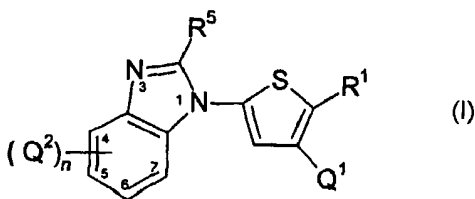
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(57) Abstract: The present invention provides compounds of for-  
mula (I): (I) pharmaceutical compositions containing the same, pro-  
cesses for preparing the same and their use as pharmaceutical agents.



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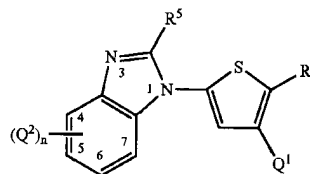
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(57) **ABSTRACT**

The present invention provides compounds of formula (1):

I



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pharmaceutical compositions containing the same, processes for preparing the same and their use as pharmaceutical agents.

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AUGUST 24, 2006

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